



**ARKANSAS INSURANCE DEPARTMENT
LEGAL DIVISION**

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COVERAGE OF NEWBORN CHILDREN

Act 298 of 1975 which took effect July 1, 1975, requires that every hospital or medical service insurance policy, contract or health care plan sold, delivered or offered for sale, issue or delivery in this state, whether group or individual in form, which covers the insured and members of his family shall include coverage for newborn infant children from the moment of birth. The coverage is to be the same as is provided for other members of the insured's family and, specifically, must include coverage for injury, illness, congenital defects and premature birth. In addition to its application to new policies, the Act also provided that existing contracts must be amended to conform to this requirement beginning with the first renewal or premium anniversary date following the effective date of the Act.

Strict compliance with this Act has proven to be extremely difficult and this Department recommends the following procedure:

The Act requires that all policies issued or renewed after July, 1975, contain this coverage. Because of the wording of the Act, there is a strong possibility that this Act will be judicially construed to impose liability for dependents born after the effective date regardless of the insurer's knowledge of the new dependent. With the existence of this probability, the Department will not approve forms unless the premium structure accommodates such without requiring additional premiums for new dependents or unless the forms are accompanied by a description of a contingency reserve to be established, which should recognize the contingencies of future births within the family units, child morbidity and the chance of a child's being retained throughout the lifetime of the insured under the handicapped dependents provision.

If the premium structure of an individual policy, as reflected in the company's rate filings with this Department, requires a separate premium for each dependent, or if the employee's contribution for group insurance is changed as a result of the addition of the new dependent, the additional premium may be charged as of the next renewal or premium due date after the coverage becomes effective. (NOTE: ARKANSAS LAW NOW REQUIRES THAT RATES FOR INDIVIDUAL DISABILITY INSURANCE [which refers to all insurance coverage usually know as accident and health insurance or health insurance] MUST BE FILED AND APPROVED PRIOR TO USE).

Given the foregoing reservations, this Department will approve policy language requiring that an insured furnish the insurer with enough information, including the date of birth of a child covered under this law. This requirement of notice may specify a reasonable period of time for the submission of notice, which shall not be less than ninety (90) days or the next premium due date, whichever is greater. A company may provide that no coverage exists after that time unless notice has been furnished. It is also anticipated that it may be necessary in some instances for a company to collect additional premiums in arrears due to the failure of the insured to provide timely notice of the birth of a child.

All insurers shall inform their insureds of the provisions of this Act and of the specific requirements which are required of the policyholder.

Certificates issued under group policies should include a description of the manner in which this requirement of law will be applied, including a clearly worded notification of any effect on the employee's contribution.

Ark Monroe, III

INSURANCE COMMISSIONER